



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-856]

Steel Threaded Rod from India: Initiation of Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

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SUPPLEMENTARY INFORMATION

The Petition

On June 27, 2013, the Department of Commerce (“Department”) received a countervailing duty (“CVD”) petition concerning imports of steel threaded rod from India, filed in proper form by All America Threaded Products Inc., Bay Standard Manufacturing, Inc., and Vulcan Threaded Products Inc., (collectively hereinafter “Petitioners”).¹ Petitioners are domestic producers of steel threaded rod. On July 2, and July 3, 2013, the Department requested additional information and clarification of certain areas of the Petition. Petitioners provided timely information supplementing the Petition on July 8, and July 9, 2013.²

¹ See Petitions for the Imposition of Antidumping Duties on Steel Threaded Rod from India and Thailand and the Imposition of Countervailing Duties on Steel Threaded Rod from India, dated June 27, 2013, (“the Petition”).

² See Antidumping Investigation of Steel Threaded Rod from Thailand and Antidumping and Countervailing Duty Investigations of Steel Threaded Rod from India — Petitioners’ Response to Supplemental Questions (Volume I: General Issues and Injury Information), dated July 8, 2013 (“General Issues Supplement”), and Countervailing Duty Investigation (“CVD”) of Steel Threaded Rod from India — Petitioners’ Response to Supplemental Questions (Volume IV: CVD—India), dated July 9, 2013.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (“the Act”), Petitioners allege that manufacturers, producers, or exporters of steel threaded rod from India receive countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing steel threaded rod in the United States. Also, consistent with section 702(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioners supporting their allegations.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act. The Department also finds that Petitioners have demonstrated sufficient industry support with respect to the investigation that Petitioners request the Department initiate.³

Period of Investigation

The period of investigation is January 1, 2012, through December 31, 2012.

Scope of the Investigation

The product covered by this investigation is steel threaded rod from India. For a full description of the scope of the investigation, *see* the “Scope of the Investigation” in Appendix I to this notice.

Comments on Scope of Investigation

During our review of the Petition, the Department had discussions pertaining to the proposed scope with Petitioners to ensure that the scope language in the Petition was an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations,⁴ we are setting aside a period of time for interested

³ See “Determination of Industry Support for the Petition” below.

⁴ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

parties to raise issues regarding product coverage. This period for scope comments is intended to provide the Department with ample opportunity to consider all issues and to consult with parties prior to the issuance of the preliminary determinations. The Department encourages interested parties to submit such comments by 5:00 p.m. Eastern Daylight Time on Tuesday, August 6, 2013, which is 20 calendar days from the signature date of this notice.

All submissions to the Department must be filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date set by the Department. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline established by the Department.⁵

The period of scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of India ("GOI") for consultations with respect to the Petition.

⁵ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) (available at <http://www.gpo.gov/fdsys/pkg/FR-2011-07-06/pdf/2011-16352.pdf>) for details of the Department's Electronic Filing Requirements, which went into effect on August 5, 2011. Information on help using IA ACCESS can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

The GOI did not accept our invitation to hold consultations before the initiation. All memoranda are on file electronically via IA ACCESS. Access to IA ACCESS is available in the Central Records Unit (“CRU”), Room 7046, of the main Department of Commerce Building.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,⁶ they do so for different purposes and pursuant to a separate and distinct authority. In addition, the

⁶ See section 771(10) of the Act.

Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.⁷

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that steel threaded rod constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.⁸

In determining whether Petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of Investigation" section above. To establish industry support, Petitioners provided their production of the domestic like product in 2012, and compared this to the estimated total production of the domestic like product for the entire domestic industry.⁹ Petitioners estimated 2012 production of the domestic like product by non-

⁷ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

⁸ See Countervailing Duty Investigation Initiation Checklist: Steel Threaded Rod from India ("India CVD Initiation Checklist"), at Attachment II, Analysis of Industry Support for the Petitions Covering Steel Threaded Rod from India and Thailand ("Attachment II"). This checklist is dated concurrently with this notice and is on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the CRU, Room 7046 of the main Department of Commerce building.

⁹ See Volume I of the Petition, at I-4 through I-6, and Exhibit I-1.

petitioning companies based on their knowledge of the industry. We have relied upon data Petitioners provided for purposes of measuring industry support.¹⁰

Based on information provided in the Petition, supplemental submission, and other information readily available to the Department, we determine that Petitioners have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.¹¹ Based on information provided in the Petition and other submissions, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.¹²

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the CVD investigation that they are requesting the Department initiate.¹³

Injury Test

Because India is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must

¹⁰ See India CVD Initiation Checklist, at Attachment II.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. Petitioners allege that subject imports from India exceed the negligibility threshold provided under section 771(24)(B) of the Act, which states that in CVD petitions, imports of subject merchandise from developing countries must exceed the negligibility threshold of 4 percent.¹⁴

Petitioners contend that the industry's injured condition is illustrated by reduced market share; increased import penetration; underselling and price depression or suppression; lost sales and revenues; low capacity utilization; stagnant employment-related variables; and decline in financial performance.¹⁵ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.¹⁶

Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

¹⁴ See Volume I of the Petitions, at I-15 and I-16 and Exhibit I-7.

¹⁵ *Id.*, at I-15 through I-29 and Exhibits I-5 through I-7 and I-10 through I-16; *see also* General Issues Supplement, at (Supp I)-4 through (Supp I)-7 and Attachments (Supp I)-6 through (Supp I)-10.

¹⁶ See India CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Steel Threaded Rod from India and Thailand.

In the Petition, Petitioners allege that producers and exporters of steel threaded rod from India benefited from countervailable subsidies bestowed by the GOI.

The Department has examined the Petition on steel threaded rod from India and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of steel threaded rod from India receive countervailable subsidies.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of 11 alleged programs. For five other programs alleged to benefit Indian producers and exporters of steel threaded rod, we have determined that the requirements for initiation have not been met. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* India CVD Initiation Checklist.

A public version of the initiation checklist for this investigation is available at <http://ia.ita.doc.gov/ia-highlights-and-news.html>).

Respondent Selection

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports of subject merchandise during the period of investigation under the following Harmonized Tariff Schedule of the United States numbers: 7318.15.5051, 7318.15.5056, 7318.15.5090 and 7318.15.2095.

We intend to release the CBP data under Administrative Protective Order (“APO”) to all parties with access to information protected by APO shortly after the announcement of this case initiation. Interested parties must submit applications for disclosure under APO in accordance

with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at <http://ia.ita.doc.gov/apo>.

Interested parties may submit comments regarding the CBP data and respondent selection within seven calendar days of publication of this notice. Comments must be filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 PM Eastern time by the date noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.

We intend to make our decision regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petition have been provided to the representatives of the GOI via IA ACCESS. Because of the particularly large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version of the Petition to the Government of India, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of allegedly subsidized steel threaded rod from India are materially injuring, or threatening material injury to, a U.S. industry.¹⁷ A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule*, 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping (“AD”) and CVD proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being

¹⁷ See section 703(a)(2) of the Act.

submitted. These modifications are effective for all proceeding segments initiated on or after May 10, 2013, and thus are applicable to this investigation. Please review the final rule, available at <http://ia.ita.doc.gov/frn/2013/1304frn/2013-08227.txt>, prior to submitting factual information in these investigations.

Notification to Interested Parties

Interested parties must submit applications for disclosure under protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634. Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.¹⁸ Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives, in all segments of any AD or CVD proceedings initiated on or after March 14, 2011.¹⁹ The formats for the revised certifications are provided at the end of the *Interim Final Rule*. Foreign governments and their officials may continue to submit certifications in either the format that was in use prior to the effective date of the *Interim Final Rule*, or in the format provided in the *Interim Final Rule*.²⁰ The Department intends to reject factual information submissions if the submitting party does not comply with the revised certification requirements.

¹⁸ See section 782(b) of the Act.

¹⁹ See *Certification of Factual Information for Import Administration during Antidumping and Countervailing Duty Proceedings: Interim Final Rule*, 76 FR 7491 (February 10, 2011) (*Interim Final Rule*), amending 19 CFR 351.303(g)(1) and (2).

²⁰ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule*, 76 FR 54697 (September 2, 2011).

This notice is issued and published pursuant to section 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

July 17, 2013_
Date

Attachment

Scope of the Investigation

The merchandise covered by this investigation is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold-drawn, cold-rolled, machine straightened, or otherwise cold-finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to this investigation are nonheaded and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Included in the scope of this investigation are steel threaded rod, bar, or studs, in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.012 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, 7318.15.5090 and 7318.15.2095 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Excluded from the scope of this investigation are: (a) threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total length; and (b) threaded rod, bar, or studs made to American Society for Testing and Materials (“ASTM”) A193 Grade B7, ASTM A193 Grade B7M, ASTM A193 Grade B16, and ASTM A320 Grade L7.

[FR Doc. 2013-17795 Filed 07/23/2013 at 8:45 am; Publication Date: 07/24/2013]